We are unable to accept the contention of the appellants. CPF contributions are not chargeable with estate duty. The money does not go to the estate of the contributor. In this case it goes to the widow and the parents of the deceased. Had the deceased lived to the age of 55 he would have withdrawn the sum standing to his credit in the CPF and the widow and children would necessarily have benefited from the deceased having this money if not for this accident. In our view, therefore, the CPF contributions do form part of the widow's dependency claim.

Since there is no appeal on the quantum we will not disturb the award under this head.

For these reasons this appeal is dismissed with costs.

Appeal dismissed.

Solicitors: *Chan, Goh & Co.; Godwin & Co.*

THE COMPTROLLER OF INCOME TAX v. BEAVER SINGAPORE PTE. LTD.

[O. C. J. (Wee Chong Jin C.J.) January 31, 1979]
[Singapore – Suit No. 654 of 1978]

Revenue Law – Income Tax – Company under liquidation in a winding up – Tax liability – Assessment – Failure to pay – Penalty for non-payment – Refusal of Registrar to stay execution on 0.14 – Court's discretion to grant stay – Income Tax Act (Cap. 141), ss. 59, 86 & 90 – R.S.C. 1970, O. 14.

The Comptroller assessed the defendant company income tax for 1973 at $11,602,014.00. The Company was under voluntary liquidation by a shareholders' resolution. They challenged the assessment and applied to the Comptroller to review and revise the assessment. The Comptroller issued a notice of demand and wrote to the defendant company stating that he did not propose to revise his assessment. The defendant appealed to the Board of Review. Before the appeal could be heard, the Comptroller commenced proceedings by issuing a Writ of Summons claiming against the defendant company the sum assessed and a penalty for non-payment. The Comptroller applied for a summary judgment. The defendant moved to the High Court for an order that the action be stayed and to restrain the Comptroller from taking any further steps in the action until further order of the court. The motion was dismissed by the High Court. The Comptroller's application for summary judgment came before the Registrar who gave liberty to the Comptroller to sign final judgment against the defendant for the total sum of $12,182,114.70.

Held, dismissing the appeal: (1) by virtue of section 86 of the Income Tax Act the tax raised became payable within one month after service of the notice of assessment, notwithstanding any objection or appeal against the assessment on which tax was levied;

(2) by virtue of section 90 of the Act, tax and any penalty under the Act may be sued for by the Comptroller by way of a specially endorsed Writ of Summons and in such a suit the production of a certificate signed by the Comptroller giving the amount of the tax due by the defendant shall be sufficient evidence of the amount due and sufficient authority for the court to give judgment;

(3) the mere fact that a person assessed to tax, who has failed to pay the amount of the tax due, disputes the liability to tax or the amount due was not a sufficient ground entitling him to have leave to defend an action brought by the Comptroller

(4) with regard to the refusal by the Registrar to stay execution on 0.14 judgment the argument that there were merits in the appeal was not a special circumstance which rendered it inexpedient to enforce judgment. On the facts disclosed the liquidators were aware that the defendant company might be assessed to tax and yet chose to distribute the company's cash assets inspite of the clear provisions of s. 59 of the Act, therefore the court declined to exercise the discretion to grant stay.

CIVIL SUIT.

Nand Singh Gandhi (Legal Officer/State Counsel) for the applicant.

Dennis Murphy (*Miss Belinda Ang* with him) for the defendant.

Cur. Adv. Vult.

Wee Chong Jin C.J.: The Comptroller of Income Tax, by a Notice of Assessment dated November 19, 1975, assessed the defendant company's income tax for the Year of Assessment 1973 at $11,602,014.00. The defendant company was then under voluntary liquidation by a shareholders' resolution dated July 19, 1972. The defendant company challenged the assessment and applied to the Comptroller to review and revise the assessment. On December 26, 1975, the Comptroller issued a notice of demand. On July 25, 1977 the Comptroller wrote to the defendant company stating that he did not propose to revise his assessment. The defendant company, on July 27, 1977 filed with the Income Tax Board of Review a Notice of Appeal appealing against the Comptroller's assessment and filed the Petition of Appeal on August 22, 1977.

Before the appeal to the Board of Review was heard the Comptroller commenced the present proceedings by issuing a Writ of Summons on March 3, 1978 claiming against the defendant com-

pany the sum of $11,602,014.00 unpaid income tax for the Year of Assessment 1973 and the sum of $580,100.70 as penalty for non-payment. The Comptroller then applied on March 11, 1978 for summary judgment. On March 13, 1978 the defendant company moved the High Court for an order that the action be stayed and to restrain the Comptroller from taking any further step in the action until further order of the court.

The Motion for stay of proceedings was dismissed by Chua, J. on May 16, 1978. On May 26, 1978 the Comptroller's application for summary judgment came before the Registrar who gave liberty to the Comptroller to sign final judgment against the defendant company for the total sum of $12,182,114.70 as claimed in the action and refused the defendant company's application to stay execution on the judgment pending the determination of the appeal against the decision of Chua, J. and/or the determination of the appeal now pending before the Income Tax Board of Review. The defendant company appealed against the decision of the Registrar and I dismissed the appeal. I now proceed to give my reasons.

It was never in dispute that by virtue of section 86 of the Income Tax Act (hereinafter referred to as "the Act") the tax raised became payable within one month after service of the Notice of Assessment, notwithstanding any objection or appeal against the assessment on which the tax is levied. By virtue of section 90 of the Act, tax and any penalty under the Act may be sued for by the Comptroller by way of a specially endorsed Writ of Summons and in such a suit the production of a certificate signed by the Comptroller giving the amount of the tax due by the defendant shall be sufficient evidence of the amount due and sufficient authority for the court to give judgment for the said amount.

It is by now settled law that the mere fact that a person assessed to tax, who has failed to pay the amount of the tax due on the Notice of Assessment, disputes the liability to tax or the amount due is not sufficient ground entitling him to have leave to defend an action brought by the Comptroller to recover payment of the amount due on the Notice of Assessment.

With regard to the question of the refusal by the Registrar to stay execution on the Order 14 judgment the argument that there are merits in the appeal against the Comptroller's assessment is not in my judgment a special circumstance which renders it inexpedient to enforce the judgment. I also declined to exercise the court's discretion to grant a stay because on the facts disclosed in the affidavits before the court the liquidators were aware that the defendant company might be assessed to tax and yet chose to distribute the company's cash assets in spite of the clear provisions of section 59 of the Act.

Order accordingly.

Solicitors: *Godwin & Co.*

TEO HONG CHOO v. CHIN KIANG INDUSTRIES PTE. LTD.

[O. C. J. (Rajah J.) September 7, 1983]
[Singapore – Originating Summons No. 322 of 1983]

Land Law – Sale and Purchase of land – Option exercised – Unsatisfactory answers to Legal Requisitions – Purchaser may annul sale and claim refund of 10% deposit.

Conveyancing – Sale and purchase of land – Option exercised and 10% deposit paid – Unsatisfactory answers to Legal Requisitions – Purchaser may annul sale and claim refund of 10% deposit – Singapore Law Society's Conditions of Sale, 1981.

The plaintiff/purchaser in this case exercised an Option to purchase No. 1214 Upper Serangoon Road for $59,000.00. A sum of $20,000 was paid to the defendants/vendors for granting the option and $39,000 being the balance of the 10% of the purchase price to the vendors solicitors as stakeholders. The sale was subject to the Singapore Law Society's Conditions of Sale 1981 subject to "special conditions herein contained". Clause 5 of the Option provided that "in the event of any of the answers to such requisitions being unsatisfactory, the purchaser may annul the sale in which event the deposit paid shall be refunded to the Purchaser without any recourse".

On January 8, 1983 a Legal Requisition was sent to the Development Control Division by the purchaser's solicitors. On February 4, 1983 the answers to the said Legal Requisition were received. On March 23, 1983, a letter written to the purchaser's solicitors by the Public Works Department stated "that the road widening lines indicated on the Interpretation Plan is applicable when the site comes up for redevelopment or when the widening of Upper Serangoon takes effect". In these circumstances the purchaser claimed that the answers to Legal Requisition 5(a) and (b) read with the letter of March 23, 1983 were unsatisfactory within the meaning of Clause 5 of the Option thus enabling her to annul the sale and have refunded to her the deposit of $59,000 paid to the vendors under the Contract.